

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 914 of 2003

Between:

Mohd. Razak, S/o.Shaik Mohiuddin
H.No.9-4-516, Virat Nagar, Shaikpet, Hyderabad

..... PETITIONER

AND

- 1 The Mandal Revenue Officer, Shaikpet Mandal, Shaikpet, Hyderabad District.
- 2 The District Collector, Hyderabad District, Hyderabad
- 3 The Chief Commissioner of Land Administration Government of A.P.,
Nampally Station Road, Hyderabad
- 4 The Prl.Secretary to Government Revenue (UC-I) Department,
Government of A.P., Secretariat, Hyderabad
- 5 The Special Officer and Competent Authority Urban Land Ceiling, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more in the nature of writ of mandamus declaring the respondent No.1 notice No.D/4080/2002, Dt.29/10/2002 fixing the market value at Rs.1000/- per sq.yard aggregating to Rs.1,26,000/- and consequential notice issued under Section 6 of the A.P.Land Encroachment Act 1905 in his notice No.D/4080/2002, Dt.01/01/2003 as illegal, arbitrary, unjust, and unconstitutional and contrary to the GO.Ms.No.455, Revenue (UC-I) Dept., Dt.29/07/2002 while issuing a consequential direction to the respondents to fix the market value of the subject land at Rs.400/- per Sq.meter in view of the GO.Ms.No.455, Revenue (UC-I) Department, Dt.29/07/2002 in the interest of justice.

Counsel for the Petitioner: MR.D.GOVERDHANACHARY

Counsel for the Respondents: GP FOR ASSIGNMENTS

WRIT PETITION NO : 921 of 2003

Between:

Amrullah Khan, S/o. Alam Geer
9-4-97/100/A, Virat Nagar, Shaikpet, Hyderabad

..... PETITIONER

AND

- 1 The Mandal Revenue Officer
Shaikpet Mandal , Shaikpet, Hyderabad District.
- 2 The District Collector, Hyderabad District,
Hyderabad
- 3 The Chief Commissioner of Land Administration, Government of A.P
Nampalli Station Raod, Hyderabad
- 4 The Prl. Secretary to Government,
Revenue (UC.I) Department, Govt. of A.P., Secretariat, Hyderabad
- 5 The Special Officer and Competent Authority (Urban Land Ceiling)
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more in the nature of writ of Mandamus declaring the first respondent's Notice in No.D/4080/2002 dated 29.10.2002 fixing the market value at Rs.1,000/- per Sq. Yard aggregating to Rs.2,56,000/- and consequential notice issued under section 6 to A.P Land Encroachment Act, 1905 in his Notice No.D/4080/2002 dt.1.01.2003 as illegal, arbitrary, unjust and unconstitutional and contrary to the G.O.Ms.No.445, Revenue (UC.I) Dept., dt.29.07.2002 while issuing a consequential direction to the respondent to fix the market value of the subject land at Rs.400/- per Sq.Meter in view of the G.O.Ms.No. 445, Revenue (UC.I) Dept., dated: 29/07/2002 in the interest of justice.

Counsel for the Petitioner: MR.D.GOVERDHANACHARY

Counsel for the Respondents: GP FOR ASSIGNMENTS

WRIT PETITION NO : 942 of 2003

Between:

Abdul Saleem S/o.Abdul Quadeer
H.No.8-1-523/B/12, Shaikpet, Hyderabad

..... PETITIONER

AND

- 1 The Mandal Revenue Officer Shaikpet Mandal, Shaikpet, Hyderabad District
- 2 The District Collector, Hyderabad District, Hyderabad
- 3 The Chief Commissioner of Land Administration Govt. of A.P., Nampally Station Road, Hyderabad
- 4 The Prl.Secretary to Government,

Revenue (UC.I) Department, Govt. of A.P., Secretariat, Hyderabad

- 5 The Special Officer and Competent Authority (Urban Land Ceiling), Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more in the nature of writ of mandamus declaring the respondent No.1's notice No.D/4080/2002, Dt.29/10/2002 fixing the market value at Rs.1000/- per sq.yard aggregating to Rs.1,94,000/- and consequential notice issued under Section 6 of the A.P.Land Encroachment Act 1905 in his notice No.D/4080/2002, Dt.01/01/2003 as illegal, arbitrary, unjust, and unconstitutional and contrary to the GO.Ms.No.455, Revenue (UC-I) Dept., Dt.29/07/2002 while issuing a consequential direction to the respondents to fix the market value of the subject land at Rs.400/- per Sq.meter in view of the GO.Ms.No.455, Revenue (UC-I) Department, Dt.29/07/2002 in the interest of justice.

Counsel for the Petitioner: MR.D.GOVERDHANACHARY

Counsel for the Respondents: GP FOR ASSIGNMENTS

WRIT PETITION NO : 953 of 2003

Between:

Abdul Rub Khan S/o.Sri Alam Geer
R/o.9-4-97/100/B,Virat Nagar Shaikpet
Hyderabad.

..... PETITIONER

AND

- 1 The Mandal Revenue Officer
Shaikpet Mandal, Shaikpet, Hyderabad Dist.
- 2 The District Collector
Hyderabad District, Hyderabad.
- 3 The Chief Commissioner of Land Administration, Government of A.P.,
Nampalli Station Road, Hyderabad.
- 4 The Prl.Secretary to Government, Revenue (UC.I) Dept, Govt. of A.P
Secretariat, Hyderabad.
- 5 The Special Officer and Competent Authority (Urban Land Ceiling)
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of the Writ of Mandamus declaring the action of the respondent No.1's notice No.D/4080/2002 dt.29-10-2002 fixing the market value at Rs.1000 per Sq.yard aggregating to Rs.2,67,000 and consequential notice issued under Sec.6 of the A.P Land Encroachment Act, 1905 in his notice No.D/4080/2002 dated 1-1-2003 as illegal, arbitrary, unjust and unconstitutional and contrary to the G.O.Ms.No.455 Revenue (UC.I) Department dated 29-7-2002; while issuing a consequential direction to the respondents to fix the market value of the subject land at Rs.400 per Sq.meter, in view of the G.O.Ms.No.455 Revenue (UC.I) Department dt.29-7-2002 in the interest of justice.

Counsel for the Petitioner: MR.D.GOVERDHANACHARY

Counsel for the Respondents: GP FOR ASSIGNMENTS

The Court made the following :

COMMON ORDER:

These four Writ Petitions can conveniently be disposed of by common order, as the controversy in the Writ Petitions is same.

The petitioners in these Writ Petitions allege that they purchased small extents of land ranging from 100 to 250 Sq.yards in S.No.87 of Golconda Mandal under unregistered agreement of sale from various vendors, who claimed to be the owners. They also obtained necessary permission and constructed houses on the respective plots, which were given water connection and electricity supply. Some of them are also paying municipal tax to Hyderabad Municipal Corporation. It is their case that the land originally belong to Mr.Qudrat Ali, who is said to have owned an extent of 67,279.76 Sq.mts. It appears Qudrat Ali filed a declaration under the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (for short, the ULC Act) and he was declared to be surplus holder in respect of huge extents of lands out of which petitioners or their predecessors purchased the land from the persons claiming the ownership. The petitioners approached the respondents to regularize the sale. Responding to the same, second respondent, namely, District Collector, Hyderabad, by Memo dt.27.10.1995 directed the petitioners to pay the cost of the land at Rs.1,000/- (Rupees one thousand only) per Sq.yard. Assailing the same, petitioners initially filed Writ Petitions which were disposed of by this Court directing the fourth respondent, namely, Government of Andhra Pradesh, in Revenue Department, to reconsider the issue of fixation of value for the land in occupation of the petitioners. As the Government did not take proper action in the matter and there were repeated demands from second respondent for the payment of the amount, they filed the present Writ Petitions apprehending coercive action under the provisions of the A.P.Land Encroachment Act, 1905.

First respondent, Mandal Revenue Officer, has filed a counter affidavit stating that pursuant to the policy to regularize small extents of lands in the occupation of the poor persons, Government issued various orders from time to time. G.O.Ms.No.508, dt.20.10.1995 was issued wherein the Government permitted regularization of the occupation subject to payment of market value. In accordance with the same, market value was fixed and as per Government order being G.O.Ms.No.972, dt.4.12.1998 if the encroacher fails to pay the market value, regularization shall stand cancelled. Therefore, the Government action in demanding Rs.1,000/- (Rupees one thousand only) per Sq.yard is justified.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (Assignment).

The core submission of the learned counsel for the petitioners, Sri D.Goverdhanachary, is as follows. So as to regularize occupation of land in possession of persons, who purchased the land from the land owners declared to be surplus holders under the ULC Act, the Government of Andhra Pradesh issued G.O.Ms.No.455, dt.29.7.2002 after collecting the market value as fixed by the Government. The market value for various types of lands in various localities in the urban agglomeration of Hyderabad is mentioned in the schedule to said G.O. The conditions in paragraph-4 would show that even the persons like petitioners are entitled to seek regularization after paying market value as mentioned in the schedule to the G.O. Therefore, collecting the amounts for excess mentioned in the schedule to the G.O. is illegal and amounts to discrimination.

Per contra, Sri M.Sriramachandra Murthy, learned Assistant Government Pleader for Revenue (Assignment) submits that the G.O. has no application. He also produced before this Court a communication received by the Mandal Revenue Officer from the Sub-Registrar, Golconda, which is to the effect that as on 24.7.2004 the market value of the land in Ward No.9, Block No.4 is Rs.1,700/- (Rupees one thousand and seven hundred only) per Sq.yard. He therefore contends that the market value fixed in 1996 at Rs.1,000/- (Rupees one thousand only) per Sq. yard is very reasonable and that the petitioners are not entitled to any relief as they have not paid any amount since then.

The only question that arises for consideration is whether G.O.Ms.No.455, dt.29.7.2002 is applicable to the case of petitioners.

As seen from the said Government Order a policy was formulated pursuant to judgment of this Court in Writ Petition No.19344 of 1995, dt.3.2.1997 so as to mitigate the difficulties encountered in the strict enforcement of law and also bearing in mind the fact that ULC Act is expropriatory law. The Government, therefore, resorted to Section 23 of the ULC Act and came forward with the policy to allot the excess lands to third parties in occupation subject to certain conditions. It is not denied that the land in occupation of petitioners in S.Nos.26, 30, 63(P), 86 to 90, and 95 to 98 of Hakimpet Village (Ward Nos.8 and 9) of Block No.IV is urban land, which was declared to be surplus holding of original declarant, Mr.Qudrat Ali. There is no

denial of the fact that petitioners or their vendors are the purchasers of the same land from persons claiming to be owners. There is also no denial of the fact that all the persons obtained permission from MCH, constructed houses, obtained electrical and water connection and paying taxes. Going by the purpose for which G.O.Ms.No.455, dt.29.7.2002 issued, it cannot be said that the said G.O. has no application insofar as petitioners are concerned.

It is no doubt true that initially the second respondent issued orders purporting to act under G.O.Ms.No.508, dt.20.10.1995 read with G.O.Ms.No.972, dt.4.12.1998. The two Government Orders only authorize regularization of occupation of small extents of lands. But, insofar as fixation of price is concerned, it has to be decided by State Level Committee. G.O.Ms.No.508, dt.20.10.1995 or G.O.Ms.No.972, dt.4.12.1998 do not deal with price fixation. In a case, which falls under G.O.Ms.No.508, dt.20.10.1995, if the principles of valuation laid down in G.O.Ms.No.455, dt.29.7.2002 are applied for the purpose of passing order of regularization, there cannot be any irrationality or unreasonableness in the same. Further, when initially the petitioners approached this Court and filed Writ Petitions, this Court directed the Government of Andhra Pradesh to reconsider the valuation fixed. In so doing, now, in the considered opinion of this Court it is always permissible for the Government to take into consideration G.O.Ms.No.455, dt.29.7.2002 as well. Therefore, the submission made by the learned counsel is rejected.

Learned counsel for the petitioners, Sri D.Govardhanachary, submits that the market value of the land is Rs.400 per Sq.meter as per G.O.Ms.No.455, dt.29.7.2002 and therefore it would be reasonable price. He would also submit that pending further consideration by the Government for fixation of valuation of the land in occupation of the petitioners, they would pay the amount calculated at Rs.400 per Sq.Meter within a reasonable period granted by this Court.

Therefore, without expression any opinion as to valuation of the land in occupation of the petitioners, these Writ Petitions are disposed of directing the fourth respondent, Government of Andhra Pradesh in Revenue (Urban Land Ceiling-I), Department, or any other Department dealing with the subject to consider the request of the petitioners for fixation of value at Rs.400/- (Rupees four hundred only) per Sq.meter within a period of eight weeks from the date of receipt of a copy of this order. As a condition precedent for this, all the petitioners shall deposit the value of the land in their occupation calculated at Rs.400/- (Rupees four hundred only) per Sq.meter within a period of three weeks from today. It shall also be open to petitioners to file their representation before the fourth respondent enclosing a copy of the challan under which the amount is paid.

With the above observations and directions, the Writ Petitions are disposed of. There shall be no order as to costs.

(V.V.S.RAO, J)

26.7.2004

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Note:Office to dispatch CC by 28.7.2004.

(B.O)

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Mandal Revenue Officer, Shaikpet Mandal, Shakipet, Hyderabad District.
- 2 The District Collector, Hyderabad District, Hyderabad
- 3 The Chief Commissioner of Land Administration, Government of A.P.,
Nampally Station Road, Hyderabad
- 4 The Prl.Secretary to Government, Revenue (UC-I) Department,
Government of A.P., Secretariat, Hyderabad
- 5 The Special Officer and Competent Authority Urban Land Ceiling, Hyderabad.

6.2CCs to G.P. for Assignments, High Court Buildings, Hyderabad (OUT)

7.2CD copies

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